



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

MAY 28 2009

Kirby-Smith Machinery, Inc.,

Plaintiff,

v.

AOK Construction, LLC, and
Continental Energy Services, LLC,

Defendants.

PATRICIA PRESLEY, COURT CLERK
by Ses DEPUTY

Case No. CJ-2009-3493

**AGREED ORDER AUTHORIZING ISSUANCE OF PLAINTIFF'S PREJUDGMENT
GARNISHMENT WITHOUT AN UNDERTAKING**

NOW on this 28 day of May, 2009, the above-captioned case comes before this Court pursuant to the *Notice of Prejudgment Garnishment* filed on May 1, 2009 ("Notice"), by Plaintiff, Kirby-Smith Machinery, Inc. ("Plaintiff" or "KSMI"), and the *Objection to Issuance of Pre-Judgment Garnishment Summons* filed on May 11, 2009 ("Objection"), by Defendants, AOK Construction, LLC ("AOK") and Continental Energy Services, LLC ("CES") (collectively, "Defendants"). Plaintiff appears by counsel, Clay P. Booth of the firm Kline, Kline, Elliott & Bryant P.C., and Defendants appear by counsel, James K. Larimore of the firm Durbin, Larimore & Bialick.

After reviewing the record in this cause and being duly advised in the premises, the Court finds and concludes as follows:

1. On May 1, 2009, KSMI filed a *Garnishment Affidavit* with the District Court of Oklahoma County, pursuant to 12 O.S. § 1172, seeking the issuance of a prejudgment garnishment summons to be issued to Ritchie Bros. Auctioneers (America), Inc., f/k/a Ritchie Bros. Auctioneers, Inc.
2. KSMI's Notice complies with 12 O.S. § 1172(1)(A)(1) and was properly served on AOK and CES.
3. AOK and CES' Objection was filed with written agreement and consent of the parties and is timely.

4. AOK and CES agree and consent to the issuance of a prejudgment garnishment summons as requested in KSMI's Notice to the Garnishee, Ritchie Bros. Auctioneers (America), Inc., f/k/a Ritchie Bros. Auctioneers, Inc., pursuant to 12 O.S. § 1172(1)(A)(3).

5. AOK and CES expressly and specifically waive and relinquish the undertaking under 12 O.S. § 1172(1)(A)(3) and (4), and any and all statutory rights and benefits of or to an undertaking under § 1172(1)(A)(3) and (4), and AOK and CES agree and consent to the issuance by this Court of the prejudgment garnishment summons to Garnishee, Ritchie Bros. Auctioneers (America), Inc., f/k/a Ritchie Bros. Auctioneers, Inc.

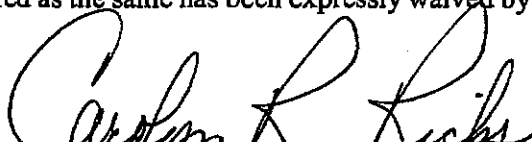
6. Venue and jurisdiction are proper.

7. By entering into this Agreed Order, AOK and CES do not waive any claim or defense regarding KSMI's causes of action, other than defenses of improper venue and lack of jurisdiction.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the foregoing findings and conclusions are adopted and incorporated by reference as the orders, adjudications, and decrees of this Court as if fully set forth herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 O.S. § 1172(1)(A)(3), the Court shall issue a prejudgment garnishment summons as requested in KSMI's Notice to the Garnishee, Ritchie Bros. Auctioneers (America), Inc., f/k/a Ritchie Bros. Auctioneers, Inc.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that no undertaking or bond as provided for under 12 O.S. § 1172(1) is required as the same has been expressly waived by AOK and CES.

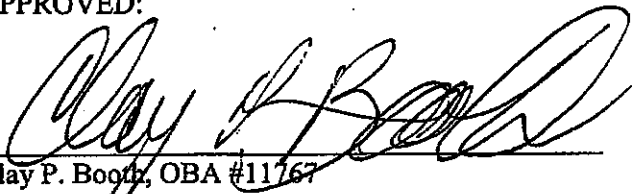


JUDGE OF THE DISTRICT COURT

Kirby-Smith Machinery, Inc. v. AOK Construction, LLC, et al.
Oklahoma County District Court, Case No. CJ-2009-3493
Agreed Order Authorizing Issuance of Plaintiff's
Prejudgment Garnishment Without an Undertaking

3890-088

APPROVED:



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- for the firm -

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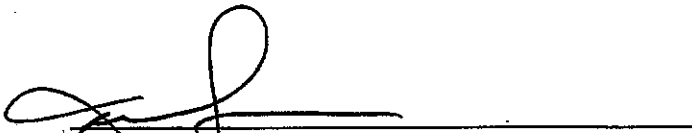
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Kirby-Smith Machinery, Inc. v. AOK Construction, LLC, et al
Oklahoma County District Court, Case No. CJ-2009-3493

Agreed Order Authorizing Issuance of Plaintiff's
Prejudgment Garnishment Without an Undertaking

3890-088

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STATE OF OKLAHOMA**

Kirby-Smith Machinery, Inc.,

Plaintiff,

v.

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Defendants.

Case No. CJ-2009-3493

**CERTIFICATE OF SERVICE OF AGREED ORDER AUTHORIZING ISSUANCE OF
PLAINTIFF'S PREJUDGMENT GARNISHMENT WITHOUT AN UNDERTAKING**

I certify that on the 2nd of June, 2009, a true and correct copy of the *Agreed Order Authorizing Issuance of Plaintiff's Prejudgment Garnishment Without an Undertaking*, filed on May 28, 2009, was mailed by regular, first class United States mail, postage fully pre-paid, to the following:

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